

# **EXHIBIT 1**

Pages 1 - 93

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ORRICK, MAGISTRATE JUDGE

IN RE: JUUL LABS, INC., )  
MARKETING, SALES PRACTICES, )  
AND PRODUCTS LIABILITY )  
LITIGATION. )

No. 19-md-02913 WHO

San Francisco, California  
Wednesday, February 16, 2022

**TRANSCRIPT OF VIDEOCONFERENCE PROCEEDINGS**

**APPEARANCES:** (via Zoom Video Conferencing)

For Plaintiffs:

LIEFF, CABRASER, HEIMANN & BERNSTEIN  
275 Battery Street, 29th Floor  
San Francisco, California 94111-3339  
**BY: SARAH R. LONDON, ESQ.**  
**REILLY T. STOLER, ESQ.**  
**ANDREW KAUFMAN, ESQ.**

GIRARD SHARP  
601 California Street, Suite 1400  
San Francisco, California 94108  
**BY: DENA C. SHARP, ESQ.**

KELLER ROHRBACK LLP  
1201 Third Avenue, Suite 3200  
Seattle, Washington 98101-3052  
**BY: DEAN KAWAMOTO, ESQ.**

**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

Reported By: Marla F. Knox, RPR, CRR, RMR  
Official Reporter - U.S. District Court

**APPEARANCES:** (continued, via Zoom)

For Plaintiffs:

WEITZ & LUXENBERG, P.C.  
700 Broadway  
New York, New York 10003

**BY: ELLEN RELKIN, ESQ.**

LEVIN SEDRAN & BERMAN LLP  
510 Walnut Street - 5th Floor  
Philadelphia, Pennsylvania 19106

**BY: KEITH L. VERRIER, ESQ.**

For Defendant Juul Labs, Inc.:

KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, Illinois 60654

**BY: RENEE D. SMITH, ESQ.**

KIRKLAND & ELLIS LLP  
1301 Pennsylvania Avenue, NW  
Washington, D.C. 20004

**BY: DAVID M. BERNICK, ESQ.  
JASON M. WILCOX, ESQ.**

MUNGER TOLLES & OLSON LLP  
350 S. Grand Avenue, 50th Floor  
Los Angeles, California 90071

**BY: GREGORY P. STONE, ESQ.**

For Defendants Altria Group, Inc. and Philip Morris USA Inc.:

ARNOLD & PORTER KAYE SCHOLER LLP  
601 Massachusetts Ave, NW  
Washington, D.C. 20001-3743

**BY: JOHN C. MASSARO, ESQ.**

1 been covered, and as far as I can tell in every round of  
2 briefing in this case.

3 Noerr-Pennington does not apply to deliberate attempts to  
4 mislead the FDA. We have put the cases. Your Honor has seen  
5 them. We have had rulings on it. We don't need to cover that  
6 territory again.

7 Regardless of its applicability to any claims of direct  
8 liability, Altria's efforts with the JLI and the FDA are  
9 evidence of aiding and abetting, intent and knowledge, as well  
10 as conspiracy.

11 So even if we have a Noerr-Pennington problem here, that  
12 doesn't eliminate those actions from the case -- that evidence  
13 from the case; and we can talk about that down the line.

14 And there is no *Buckman* claim here. The duty is to avoid  
15 aiding and abetting a known tort feisor not to refrain from  
16 deceiving the FDA.

17 Finally turning to the Tennessee Products Liability Act,  
18 Altria has no authority -- literally no authority -- for the  
19 proposition that the TPLA eliminates common law claims against  
20 it. Nothing in the text says so.

21 Altria cites no legislative history. There is no case.  
22 Look at the cites in their reply brief, some of which  
23 Mr. Massaro talked about today.

24 They cite a treatise on comparative fault that actually  
25 says if you look at it, that the TPLA is, quote, not a